

AMENDED IN ASSEMBLY APRIL 29, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

AMENDED IN ASSEMBLY MARCH 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 140**

**Introduced by Assembly Member Levine  
(Coauthor: Assembly Member Bermudez)**

January 17, 2003

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An act to amend Sections 2800.1, 2800.2, and 2800.3 of, and to add Section 2800.6 to, the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 140, as amended, Levine. Vehicles: peace officers: fleeing.

(1) Existing law makes it a misdemeanor for a person operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle, if certain conditions exist.

This bill would make a violation of this provision punishable as either a misdemeanor or a felony. The bill thereby would establish a state-mandated local program.

(2) Existing law makes it a misdemeanor or a felony for any person operating a motor vehicle to willfully flee or to otherwise attempt to evade a pursuing peace officer, if certain conditions exist, including that the pursued vehicle be driven with a willful or wanton disregard for the safety of persons or property.

This bill would make a violation of this provision punishable exclusively as a felony. The bill thereby would establish a state-mandated local program.

(3) Existing law makes it a misdemeanor or a felony for any person operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle, if certain conditions exist, including that the prohibited conduct proximately causes serious bodily injury, as defined, or death. A violation of this provision is punishable by a specified term of imprisonment in a county jail or in state prison for 3, 4, or 5 years, or by a specified fine, or by both the fine and imprisonment.

This bill would increase the maximum fines and terms of imprisonment for a violation of this provision.

The bill would make a violation of this provision punishable exclusively as a felony. The bill thereby would establish a state-mandated local program.

*The bill would further provide that as to those cases involving the prohibited conduct that proximately causes death, nothing contained in the bill would preclude the imposition of a greater sentence under any other provision of law.*

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as  
2 Harley's Law.

3 SEC. 2. Section 2800.1 of the Vehicle Code is amended to  
4 read:

5 2800.1. (a) Any person who, while operating a motor vehicle  
6 and with the intent to evade, willfully flees or otherwise attempts  
7 to elude a pursuing peace officer's motor vehicle, is guilty of a  
8 public offense, punishable by imprisonment in the county jail for



1 not more than one year or by imprisonment in the state prison, if  
2 all of the following conditions exist:

3 (1) The peace officer's motor vehicle is exhibiting at least one  
4 lighted red lamp visible from the front and the person either sees  
5 or reasonably should have seen the lamp.

6 (2) The peace officer's motor vehicle is sounding a siren as may  
7 be reasonably necessary.

8 (3) The peace officer's motor vehicle is distinctively marked.

9 (4) The peace officer's motor vehicle is operated by a peace  
10 officer, as defined in Chapter 4.5 (commencing with Section 830)  
11 of Title 3 of Part 2 of the Penal Code, and that peace officer is  
12 wearing a distinctive uniform.

13 (b) Any person who, while operating a motor vehicle and with  
14 the intent to evade, willfully flees or otherwise attempts to elude  
15 a pursuing peace officer's bicycle, is guilty of a misdemeanor if the  
16 following conditions exist:

17 (1) The peace officer's bicycle is distinctively marked.

18 (2) The peace officer's bicycle is operated by a peace officer,  
19 as defined in paragraph (4) of subdivision (a), and that peace  
20 officer is wearing a distinctive uniform.

21 (3) The peace officer gives a verbal command to stop.

22 (4) The peace officer sounds a horn that produces a sound of at  
23 least 115 decibels.

24 (5) The peace officer gives a hand signal commanding the  
25 person to stop.

26 (6) The person is aware or reasonably should have been aware  
27 of the verbal command, horn, and hand signal, but refuses to  
28 comply with the command to stop.

29 SEC. 3. Section 2800.2 of the Vehicle Code is amended to  
30 read:

31 2800.2. (a) If a person flees or attempts to elude a pursuing  
32 peace officer in violation of Section 2800.1 and the pursued  
33 vehicle is driven in a willful or wanton disregard for the safety of  
34 persons or property, the person driving the vehicle, upon  
35 conviction, shall be punished by imprisonment in the state prison  
36 for one, two, or three years. The court may also impose a fine of  
37 not less than one thousand dollars (\$1,000) nor more than ten  
38 thousand dollars (\$10,000), or may impose both that  
39 imprisonment and fine.

(b) For purposes of this section, a willful or wanton disregard for the safety of persons or property includes, but is not limited to, driving while fleeing or attempting to elude a pursuing peace officer during which time either three or more violations that are assigned a traffic violation point count under Section 12810 occur, or damage to property occurs.

SEC. 4. Section 2800.3 of the Vehicle Code is amended to read:

2800.3. Whenever willful flight or attempt to elude a pursuing peace officer in violation of Section 2800.1 proximately causes serious bodily injury to any person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for four, five, or seven years, or by a fine of not less than two thousand dollars (\$2,000) nor more than fifteen thousand dollars (\$15,000), or by both that fine and imprisonment.

For purposes of this section, “serious bodily injury” has the same meaning as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code.

SEC. 5. Section 2800.6 is added to the Vehicle Code, to read:

2800.6. (a) Whenever willful flight or attempt to elude a pursuing peace officer in violation of Section 2800.1 proximately causes the death of a person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for five, seven, or nine years, or by a fine of not less than two thousand dollars (\$2,000) nor more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(b) *Nothing in subdivision (a) shall preclude the imposition of a greater sentence under any other provision of law.*

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.